

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Sharon Quirk-Silva, Chair

AB 2252 (Aguiar-Curry) – As Amended March 3, 2022

SUBJECT: Broadband infrastructure: disasters: reports

SUMMARY: This bill requires the California Public Utilities Commission (CPUC) to collect specified information from broadband service providers following a Governor declared state or local disaster, and annually share that information with the Legislature as specified. Specifically, **this bill:**

- 1) Requires the CPUC to collect the following service related information from broadband service providers, as specified:
 - a) The extent of any damage to broadband infrastructure caused by the disaster, including the type of infrastructure damaged.
 - b) The types of infrastructure used to restore broadband service capability following an outage caused by, or to repair or replace related broadband infrastructure damaged by, the disaster.
 - c) The obstacles encountered by the broadband service provider in repairing or replacing broadband infrastructure.
- 2) Requires the CPUC to share the information with the Legislature and the public in several ways:
 - a) Annually, in a report to the appropriate policy committees of the legislature.
 - b) Annually, in a summarized manner, by the President of the commission to the appropriate policy committees of the legislature.
 - c) Posted on the CPUC's internet website.
- 3) Authorizes the CPUC to make public the collected information, consistent with existing law and existing procedures, including existing law and existing commission general orders.
- 4) Requires that the CPUC shall seek to limit duplicative data request to providers.
- 5) Specifies that this bill does not require the CPUC to either revise or otherwise modify existing emergency and disaster relief requirements adopted pursuant to an existing proceeding.

EXISTING LAW:

- 1) Defines "telecommunications service" to mean voice communication provided by a telephone corporation, voice communication provided by a provider of satellite telephone services, voice communication provided by a provider of mobile telephony service, and voice communication provided by a commercially available facilities-based provider of voice

communication services utilizing Voice over Internet Protocol or any successor protocol. (Public Utilities Code § 2892.1)

- 2) Provides the CPUC with broad authority to collect all information necessary to exercise its jurisdiction over public utilities, as defined, and requires public utilities to furnish the requested information in the manner and frequency prescribed by the CPUC. (Public Utilities Code § 581, Public Utilities Code § 582, Public Utilities Code § 584)
 - a. Defines a “public utility” to include every telephone corporation. (Public Utilities Code 216)
- 3) Requires that no information furnished to the CPUC by a public utility shall be open to public inspections or made public, except on order of the commission or a commissioner in the course of a proceeding. (Public Utilities Code § 583)
- 4) Requires the CPUC to adopt rules requiring providers of telecommunications service to submit resiliency plans to the CPUC, which shall include a provider’s plan to provide reliable service for at least 72 hours. (Public Utilities Code § 776.2)
- 5) Requires the CPUC to submit various reports to the legislature, including information about the effect of deenergization events on telecommunications service and public safety. (Public Utilities Code § 910 et. seq.)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) *Author’s Statement:* “The wildfires of 2017 and 2018 caused massive devastation, from private property loss to telecommunications network damage. Many people reported their mobile phones went dark, and Internet service went out, as cell towers were damaged and underground fiber lines burned. In 2017 an online survey found that 64 percent of respondents in Sonoma County’s wildfire affected areas lost landline phone service. Just last year in 2020, the Glass Fire reportedly damaged telecommunications infrastructure, causing disruptions in phone service in the affected area.

Without information regarding the methods and technology used to rebuild, there is no way to ensure that residents have the same or improved access to a reliable network. For most Californians, reliable voice telephone service is necessary to reach 911. Without it, the ability to contact emergency services is limited or nonexistent. AB 1100 is needed to ensure that state regulators and public officials are informed of telecommunications service failures and network damage after a natural disaster.”

- 2) *Telecommunications service and broadband service.* The difference between the colloquial understanding of telecommunications service and its legal meaning creates challenges for public policy, especially concerning broadband. For example, the often-cited definition of telecommunications service in the California Public Utilities Code does not include broadband. Similarly, under federal regulations broadband is not considered a

telecommunications service¹. Nonetheless, the need for reliable telecommunications service certainly includes broadband service too. To that end, this bill would give the CPUC explicit direction to collect certain service reliability information from broadband service providers.

- 3) *Recent regulatory actions.* The CPUC initiated the Broadband for All proceeding² to set the strategic direction and changes necessary to expeditiously deploy reliable, fast, and affordable broadband Internet access services that connect all Californians. In Phase I of that proceeding the CPUC adopted new post-disaster community engagement and reporting requirements for Investor-Owned Utilities (IOUs) and facilities-based telecommunications service providers in California³. The requirements in that decision are similar to what is included in this bill. However, the requirements of that decision apply specifically to facilities-based telecommunications service providers, which is not technically a category that includes broadband service providers as explained above. Consistent with the requirements for facilities-based telecommunications service providers, this bill would require the CPUC to collect similar information from broadband service providers. However, given recent litigation regarding regulation of broadband by states, it is possible that the CPUC would be preempted from exercising such authority by federal law. This is important to note because, without a clear enforcement mechanism in the bill to ensure compliance with data requests, the CPUC may not have the tools or legal authority to compel broadband service providers to furnish the requested information if they choose not to comply.
- 4) *Service quality rules for telecommunications service and broadband.* The CPUC currently does not have any service quality related requirements or rules for broadband service providers. For voice communications service, General Order (GO) 133 governs the CPUC's service quality related rules for voice communications services (including voice services provided over broadband facilities voice of internet protocol (VoIP)). The CPUC recently voted to open a new order instituting rulemaking⁴ (OIR) to consider revisions to GO 133. The adopted OIR currently focuses on voice communications services only, and does not include broadband. According to the CPUC, it is possible that this proceeding could incorporate considering broadband service quality rules, including high-speed internet access described in the bill. However, without clear legislative direction the CPUC would likely choose to exclude broadband requirements from GO-133 because of the legal uncertainty. For example, various stakeholders submitted comments to the CPUC regarding the OIR asserting that the CPUC lacks authority to regulate VoIP and/or broadband services.
- 5) *CPUC and CalOES both collect telecommunications data.* The CPUC has broad authority to collect information from telecommunications service providers about events that impact service and service reliability, including disasters. Pursuant to existing law, the Governor's Office of Emergency Services (CalOES) also collects real-time information on certain network outage for telecommunications service lasting 30 minutes or longer, in order to provide situational awareness to first responders and public safety officials during

¹ FCC 17-60. In the Matter of Restoring Internet Freedom. WC Docket No. 17-10.

<https://docs.fcc.gov/public/attachments/FCC-17-60A1.docx>

² Rulemaking (R.) 20-09-011. Broadband Infrastructure Deployment Proceeding.

<https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-infrastructure-deployment>

³ Decision (D.) 21-10-020. Decision Resolving Phase I of Broadband for All Proceeding.

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M417/K404/417404197.PDF>

⁴ Petition 21-10-003. Order Instituting Rulemaking Proceeding to Consider Amendments to General Order 133.

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M458/K831/458831463.PDF>

emergencies. However, neither agency collects broadband specific reliability or service quality data from providers following a Governor declared disaster or otherwise. Therefore, information about broadband service or service restoration following a disaster is not generally available to the Legislature or the public.

6) *Related/prior legislation.*

- a) AB 1100 (Aguiar-Curry, 2021) would have required the CPUC to collect information related to the damage, repair, restoration, and backup generation of telecommunications infrastructure as a result of a fire or other disaster. The bill was held in Senate Appropriations.
- b) SB 670 (McGuire, Chapter 412, Statutes of 2019), requires CalOES to establish telecommunications service regulations regarding community isolation outages that affect a community's ability to call 911 and receive emergency notifications.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Association of Counties
Rural County Representatives of California
The Utility Reform Network (TURN)

Opposition

California Cable & Telecommunications Association

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